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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,450	07/31/2003	Ramazan Benrashid	WGS-2003-A1	3840
7590 Andrew F. Sayko Jr. 1014 Crooked Oaks Lane Seabrook Island, SC 29455		04/04/2007	EXAMINER KOSLOW, CAROL M	
			ART UNIT 1755	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/04/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)
	10/632,450	BENRASHID ET AL.
	Examiner C. Melissa Koslow	Art Unit 1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 February 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5,7-12,18-22 and 26-36 is/are pending in the application.
 - 4a) Of the above claim(s) 28-33 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 5, 8, 18-22, 26, 27 and 34-36 is/are rejected.
- 7) Claim(s) 2,3,7 and 9-12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

This action is in response to applicants' amendment of 15 February 2007. The amendment to the specification has overcome the objection to page 4. The amendment to the claims have overcome the objections to the claims, the 35 USC 112 first paragraph rejection over claims 18-22, the 35 USC 112 second paragraph rejection over claims 4, 11, 12, 16, 17 and 23-27 and the art rejections over claims 1-13, 16, 17, the 35 USC 102(e) rejection and the rejections over U.S. patent 6,984,483 or WO 01/04186. Applicant's arguments with respect to the remaining rejections and objections have been fully considered but they are not persuasive.

Claims 28-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the paper dated 15 April 2006.

The disclosure is objected to because of the following informalities: The formula on page 12 is not an alkyl or dialkyl substituted trialkoxysilane or dialkoxy silane. These phrases imply that one or two of the alkoxy groups in trialkoxysilane, which has the formula $(RO)_3SiH$ and RO is an alkoxy group, or dialkoxy silane, which has the formula $(RO)_2SiH_2$ and RO is an alkoxy group, is replaced by an alkyl group. The formulas on page 12 and figure 1 show that the SOG is produced from an alkyltrialkoxysilane or a dialkyldialkoxy silane. Given this, the description of the silane as an alkyl or dialkyl substituted trialkoxysilane or dialkoxy silane is incorrect and should be corrected throughout the specification. The definitions of the R groups on page 12 does not correspond with the name on page 11, which limits the R groups to alkoxy groups and C1-8 alkyl groups. The teaching on page 12, line 6 is confusing since a trialkoxysilane must have three alkoxy groups. It can only have one alkyl or methacryloxypropyl group. Appropriate correction is required.

The amendment to the specification did not overcome the objection for the above reasons.

Claims 8, 18 and 35 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Line 21 on page 12 through line 2 on page 13 teach the dopant is an organic material, such as an organic dye or a metal complex or a phosphor dopant nanoparticles, such as a YAG based phosphor or a moisture sensitive phosphor. Claims 8, 18 and 35 teach the phosphor dopant can be an organic material selected from an organic dye or a metal complex. This is different from what is taught in the specification. This discrepancy needs to be corrected.

The amendment to claim and the specification did not overcome the rejection. The deletion of the comma does not change the teaching in the specification that applicants do not consider the organic material to be a phosphor dopant. The rejection is maintained.

Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite since the description of the silane as an alkyl or dialkyl substituted trialkoxysilane or dialkoxy silane is incorrect for the reasons given above in the objection to the disclosure. Claim 5 is confusing since a trialkoxysilane must have three alkoxy groups. It can only have one alkyl or methacyloxypropyl group.

The amendment to the claims did not overcome the rejections.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 18-22, 26, 27 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,818,721.

This reference teaches producing a silicic acid polycondenstate by reacting diphenylsilane diol with a silane which can have the formula $R_2Si(OR')_2$, where R' is an alkyl and R can be an C 1-18 alkyl, such as octyl, in an alcohol in the presence of a catalyst. This is the claimed process and is identical process of figure 4. This is the claimed process and is identical process of figure 2 and 3. Thus one of ordinary skill in the art would expect the resulting polycondenstate to be a hybrid glass/polymer inherently having formula I, when R is methacyloxypropyl, or inherently having formula II or IV, where R is octyl. Thus one of ordinary skill in the art would expect the resulting polycondenstate to be a hybrid glass/polymer inherently having formula III. Column 7, line 65 through column 8, line 41 teaches fillers, which are known light scattering materials, dyes, which are known to be organic materials, UV absorbers or UV light blocking materials and antioxidants, which are oxygen scavengers, can be added to the polycondenstate. The reference teaches the reaction can contain boron, aluminum, titanium or zirconium coupling agents, such as titanium propoxide. While the reference does not teach the addition of phosphors, it teaches the addition of any dye to enhance the optical properties of material. Phosphorescent dyes and fillers are known in the art, and are added when it is desired to have a material that exhibits phosphorescent properties, such as in light guides. Therefore, one of ordinary skill in the art would have found it obvious to use phosphorescent

dyes or particles as the taught dye and filler to impart phosphorescent properties to the material. The reference suggests the claimed process and material.

In response to applicant's argument that there is no suggestion that the taught composition will provide a spin-on glass material that is useful in the production of devices such as waveguides, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case the processes and the precursor compositions are the same as those claimed. There has been no showing that the taught composition is not a sol-gel spin-on glass nor would it act as one. Applicants argue that the reference does not teach or suggest the addition of a phosphor dopant. The Examiner acknowledged this and then proposed why it would have been obvious to one of ordinary skill in the art to add a phosphor dopant to the taught composition. Applicants did not address this aspect of the rejection. It is maintained.

Claims 2, 3, 7 and 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 5 and 8 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112 set forth in this Office action.

These claims are allowable for the reasons given in the previous action.

Art Unit: 1755

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk
March 30, 2007


C. Melissa Koslow
Primary Examiner
Tech. Center 1700